

Vermont's Acceptable Management Practices (AMP) Monitoring Program Annual Statewide Summary 2015

This report summarizes statewide results of Vermont's Acceptable Management Practices (AMPs) Monitoring Program from January 1 to December 31, 2015.

Introduction

The "Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont" first became effective on August 15, 1987 and were adopted under the authority of Chapter 47 of Title 10 of the Vermont Statutes Annotated, Water Pollution Control (10 V.S.A. §1259). The AMPs are intended to prevent discharges of sediment, petroleum products, logging slash, and other hazardous materials associated with logging from entering streams and other bodies of water; to control soil erosion; and to maintain natural water temperature.

The AMPs apply to all logging operations in Vermont and must be implemented for all logging operations regardless of the purpose of the logging. For example, logging may be conducted for silvicultural or other forest management purposes or logging may be conducted as a precursor to some other type of land use such as commercial, residential, or electric utility development. In all situations the AMPs apply to the logging activity, whenever felling and moving of trees occurs, regardless of mode or purpose.

AMP Legislative Updates

Act 64 of 2015 (the Vermont Clean Water Act) required the Commissioner of the Department of Forests, Parks and Recreation (FP&R) to revise by rule the AMPs by July 1, 2016 to ensure that all logging operations on both public and private forestland are designed to prevent or minimize discharges of sediment, petroleum products, and woody debris (logging slash) from entering streams and other waters; improve soil health of forestland; protect aquatic habitat and aquatic wildlife; and prevent erosion and maintain natural water temperature.

FP&R has started the formal state rule-making process to amend the AMPs. Information and updates can be found by going to the Department's website at <http://fpr.vermont.gov/>

Act 64 of 2015 also required the Commissioner of Forests, Parks and Recreation to submit on or before January 15, 2016 to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, and the House Committee on Natural Resources and Energy a recommendation and supporting basis as to how:

- 1) "to implement the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as mandatory practices for all logging operations on public and private forestland;"
- 2) "the Department of Forests, Parks and Recreation will enforce Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as mandatory practices for all logging operations on public and private forestland;"

The report was prepared and submitted. A copy of the report can be found at: <http://legislature.vermont.gov/reports-and-research/find/2016>

What Constitutes AMP and Water Quality Violations?

Discharges of wastes into the waters of the State through any means or activities are violations of the State Water Pollution Control Act, 10 V.S.A. §1259 and the Vermont Water Quality Standards (regulations established pursuant to the statute). The AMPs are also promulgated under the authority of 10 V.S.A. §1259, and when implemented, relieve a person from the obligation of obtaining a permit for discharges (associated with logging operations) into waters of the State. Discharges of wastes into waters of the State resulting from logging operations where the AMPs are not implemented can result in enforcement action and assessment of penalties.

A water quality violation occurs when there is a discharge of waste to waters of the State as a result of activities associated with a logging operation. Sediment, petroleum products, woody debris, logging slash, and other hazardous materials associated with logging are wastes under the

Vermont water quality statutes, water quality regulations, and AMP regulations. If the AMPs are not correctly implemented and a discharge occurs, there is a violation of the AMPs and therefore a water quality violation. In such situations, penalties may be assessed for the water quality violation as well as the AMPs that are not implemented. If no discharge occurs, the logger or landowner cannot be fined or prosecuted for not implementing the AMPs. If the AMPs are correctly implemented, there is a presumption that the logging operation is in compliance with the State water quality statutes and the Vermont Water Quality Standards even if a discharge occurs as a result of logging. However, this presumption may be overcome if a water quality analysis demonstrates that there is a discharge of wastes into waters of the State due to logging, constituting a violation of 10 V.S.A. §1259 and the Water Quality Standards (Vermont Water Quality Standards Section 2-03B.1). Therefore, although implementation of the AMPs cannot guarantee that a discharge (and a water quality violation) will not occur, the AMPs define the best practices available to prevent discharges associated with logging operations. When correctly implemented, the AMPs provide a level of protection for the landowner and/or logger from enforcement of water quality violations.

Memorandum of Understanding

Since the adoption of the AMPs, the Department of Forests, Parks and Recreation (FPR) has worked with representatives from the Vermont forest industry to support the Department of Environmental Conservation (DEC) Environmental Compliance Division in an effort to reduce the number and severity of discharges resulting from logging operations. A Memorandum of Understanding (MOU) was renewed in 2010 between DEC Environmental Compliance Division and FPR and remains in effect. The MOU outlines a process to be followed that provides a consistent approach to remediation and enforcement of water quality violations associated with logging operations. According to the agreement, five AMP Technical Advisory Teams (TATs) assist loggers and landowners in complying with the AMPs and conduct site inspections to respond to complaints of potential AMP violations. These teams consist of an FPR forester and a DEC Environmental Enforcement Officer, when deemed necessary. A representative of the Vermont forest industry, depending on his/her availability, may also be involved in conducting site inspections.

AMP Site Investigations and Assistance Provided

During 2015, AMP foresters conducted site investigations on 37 logging operations. Upon investigation, 16 of these cases either displayed an on-going discharge or exhibited evidence that a discharge had recently occurred as a result of logging. Appropriate AMPs were prescribed and immediately implemented to stop discharges to State waters and/or the logging operation was closed out to the satisfaction of the State. Enforcement and assessment of penalty were not pursued in these 16 cases on the grounds that (1) voluntary compliance was successful, (2) the site investigation did not reveal that there was substantial failure to comply with the AMPs, and (3) the logger did not have a history of non-compliance with the AMPs in combination with discharges to State waters. The remaining 21 cases revealed no active discharge or recent evidence thereof as a result of logging.

Department of Environmental Conservation Environmental Compliance Division

No cases were referred to the Environmental Compliance Division for enforcement and assessment of penalty in 2015. However, one case is open for post-judgment contempt proceedings. One case referred for enforcement in 2013 is open, pending any appeals of an Environmental Court decision issued in 2015. One case referred to the Environmental Compliance Division in 2013 was closed with a final Administrative Order issued in 2015.

Requests for Technical Assistance

There were 11 requests for technical assistance during 2015. Requests for technical assistance generally entail an AMP forester meeting with a logger at the logger's request. The meeting is generally held on-site before a logging operation begins to provide recommendations to protect water quality and control soil erosion during and after the operation. Most assists deal specifically with stream crossings.

Conclusions

There continues to be a high level of cooperation between loggers and forest landowners to comply with Vermont's Water Quality Statutes by implementing AMPs. The number of AMP cases reported and investigated has remained fairly consistent over time with no apparent upward or downward trend. The Vermont forest industry actively supports the AMP Program by providing representatives to the TATs. The MOU between FPR and DEC Environmental Compliance Division has been an effective guide to refer to when investigating AMP cases. The number of AMP cases referred to the DEC Environmental Compliance Division remains low in comparison to the total number of water quality cases investigated. Vermont loggers are encouraged to continue participating in AMP workshops hosted by the Logger Education to Advance Professionalism (LEAP) Program and FPR's Watershed Forestry Program.

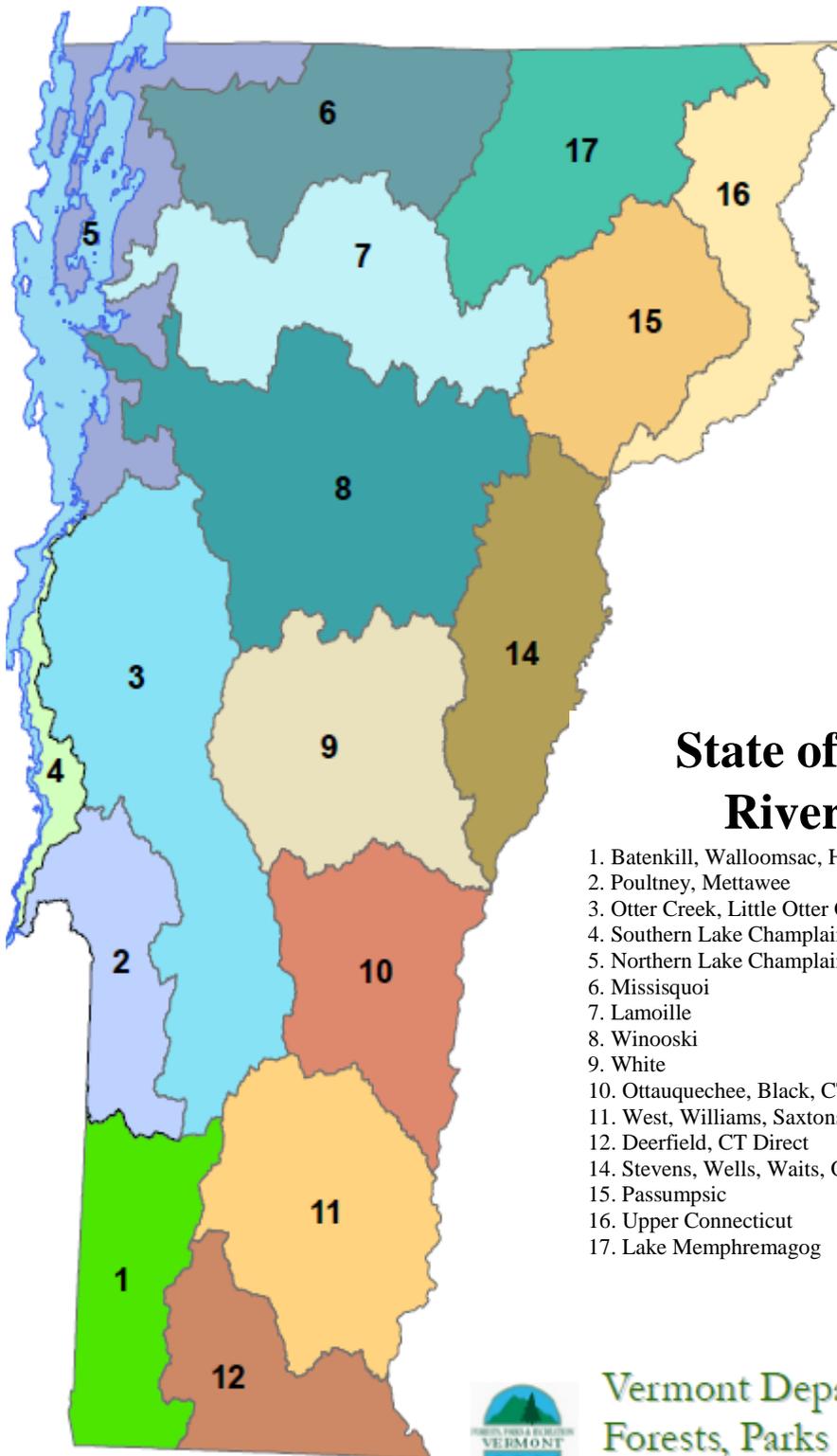
cc:	Michael Snyder	Cathy Kashanski
	Steven Sinclair	Kim Greenwood
	AMP Foresters	Sean McVeigh
	Forestry District Managers	Bill Sayre
	Meghan Purvee	John Zaikowski
	DEC Enforcement Officers	Colleen Goodridge
	DEC Basin Planners	Mike Kline
	Darcie Johnston	Neil Kamman
	Shannon Morrison	Thea Schwartz
	Laura Lapierre	
	Rick Hopkins	
	Kathleen Wanner	
	Jim Kellogg	

**2015 SUMMARY OF AMP
TECHNICAL ADVISORY TEAM ACTIVITIES**

	FORESTRY DISTRICT					Total
	Springfield I	Pittsford II	Essex III	Barre IV	St. Johnsbury V	
Number of Cases with Evidence of Discharge	2	3	2	6	3	16
Number of Cases Resolved*	2	3	2	6	3	16
Number of Cases Involving Assistance from Environmental Compliance Officer	1	0	0	0	0	1
Number of Requests for Technical Assistance	2	0	4	3	2	11
Number of Cases with No Evidence of Discharge	5	1	3	2	10	21
Total Number of Cases Investigated**	7	4	5	8	13	37

*Resolved either by implementation of AMPs or the closing out of the logging operation to the satisfaction of the State.

The total equals the sum of **Number of Cases with Evidence of Discharge and **Number of Cases with No Evidence of Discharge**.

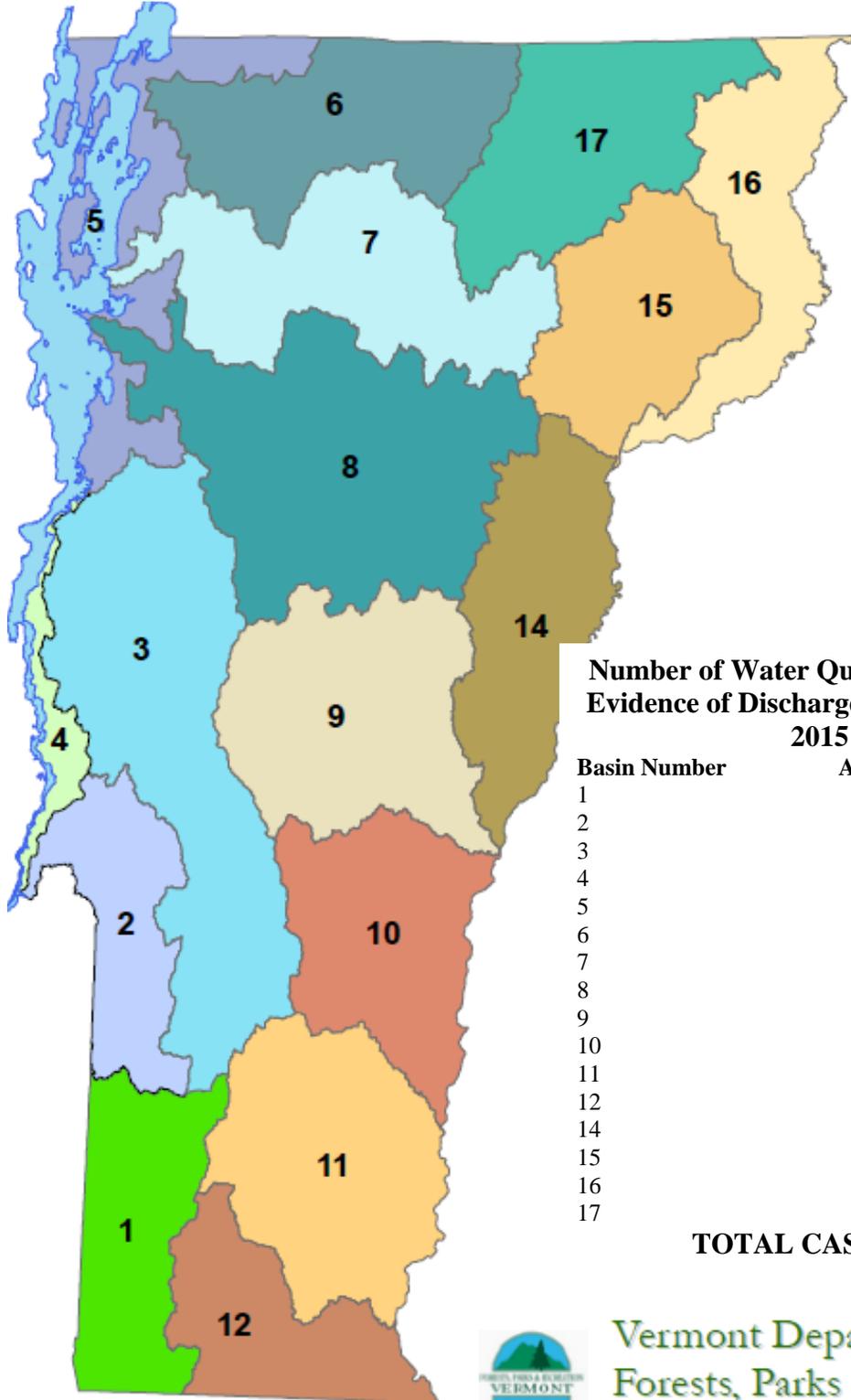


State of Vermont River Basins

1. Batenkill, Walloomsac, Hoosic
2. Poultney, Mettawee
3. Otter Creek, Little Otter Creek, Lewis Creek
4. Southern Lake Champlain
5. Northern Lake Champlain
6. Missisquoi
7. Lamoille
8. Winooski
9. White
10. Ottauquechee, Black, CT Direct
11. West, Williams, Saxtons, CT Direct
12. Deerfield, CT Direct
14. Stevens, Wells, Waits, Ompompanoosuc, CT Direct
15. Passumpsic
16. Upper Connecticut
17. Lake Memphremagog



Vermont Department of
Forests, Parks & Recreation



Number of Water Quality Cases with Evidence of Discharge by River Basin 2015

Basin Number	AMP Cases
1	0
2	1
3	2
4	0
5	1
6	0
7	2
8	2
9	1
10	1
11	1
12	0
14	2
15	1
16	1
17	1

TOTAL CASES - 16



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